

REMARKS

The Official Action dated December 27, 2004 has been carefully reviewed.

Responsive to the Restriction Requirement in the Official Action, applicant hereby selects Group II comprising claims 2, 7 - 16 and 43 - 52 for immediate continued examination in this application. Concerning the election of species requirement expressed in paragraph 4 of the Official Action, the applicant hereby elects the species 2, claims 2, 7 - 12 for immediate further examination. The Restriction Requirement and election of species set forth in the Official Action are respectfully traversed.

Turning first to the election of species requirement, it is noted that species 1 is said to be related to an instrument with "electro optical means." However, claims 2 and 7 - 10 contain no such "electro optical means".

Claim 2 is generic to species 1 and species 2, contrary to the examiner's statement that currently there is no generic claim. Claim 2 is sufficiently broad to cover both an instrument with "electro optical means" (species 1) and an instrument with "weir or slit in channels" (species 2), with or without an electro optical means. In other words, claim 2 is broad enough to cover the content of claims 7 - 12, all dependent from claim 2 and is sufficiently broad to cover the content of claims 13 - 16. Dependent claims 7 - 10 are generic to the two species as well, they are broad enough to cover structure with the subject matter of species 1, where they have been placed, and the subject matter of species 2.

Further, applicants submit new claims 65 to 69. Claim 65 is a generic claim broad enough to cover instruments in each of species 1 and 2. New claims 65 - 68, if they must be classified in a particular species, should be classified in species 1, although they like other claims in species 1 do not include a "electro optical means." Claim 69, dependent from generic claim 65, is classified in species 2, which establishes that claim 65 is generic to the two species.

In view of the foregoing, it is respectfully urged that the species selection requirement of paragraph 4 of the outstanding Official Action should be withdrawn at this time and all of claims 2, 7 - 12, 13 - 16, 43 - 52, and 65 - 69 should be examined together going forward.

The examiner's classification of claim 29 - 42 as a separate invention of Group V is respectfully traversed. Claims 29 - 42, the examiner says, are "drawn to a liquid specimen test device comprising a closure covering flow channels, filters, collection regions, expanded output flow channels and at least one vent line, classified in class 422, subclass 68.1." Claim 2 of

Group II is, however, a generic linking claim covering the subject matter of claims 29 - 42 as well as the subject matter of Group II. Again it is noted that claim 2 like other claims of Group II does not include a "electro optical means" contrary to the outstanding Official Action.

Likewise, it is respectfully urged, that claims 7 - 10 link Groups II and V. Claims 7 - 10 are sufficiently broad to cover the subject matter of Group II as well as Group V. The claims of the two groups should be examined together. It is respectfully urged that these two groups of claims are not, as the Official Action contends "unrelated." They do not, again as the Official Action contends, "have different modes of operation, different functions, or different effects." The linking claims 2 and 7 - 10 cover subject matter of both groups which, in fact, have the same modes of operation, functions and effects.

Claims 65 - 68 also link or are generic to Groups II and V as identified in the Official Action. It is therefore respectfully requested that the outstanding Restriction Requirement be withdrawn insofar as it applies to Groups II and V.

Regarding the separate classification of Groups II and VII, it is respectfully urged that the outstanding Restriction Requirement is in error. First it is noted that the Official Action states that claims 58 and 59 are "drawn to a micro-engineered blood separation device, classified in class 422, subclass 50." This is not true of claim 59. It claims no micro-engineered blood separation device and is more akin to what has been identified as Group II species 2 and should be classified there. Also, claims 2, 7 - 10 and 65 - 68 are generic to or link the groups identified as Groups II and VII. These claims are broad enough to cover a micro-engineered blood separation device classified in class 422, subclass 50. Withdrawal of the outstanding Restriction Requirement insofar as it applies to Groups II and VII is respectfully requested.

In the event that the examiner has questions or suggestions regarding the foregoing or the claims of this application, he is invited to contact the undersigned attorney for applicant by telephone or email at the telephone number or email address given below. Early favorable reconsideration of the application is requested.

A two month extension of time in which to respond to the Official Action is requested in the accompanying Request for Extension of Time, submitted in duplicate.

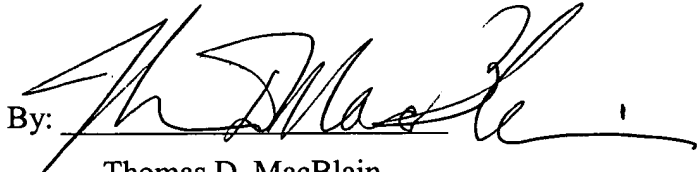
Respectfully submitted,

GALLAGHER & KENNEDY, P.A.

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3/25/05

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